

Current Status of Discussions on Key VA WIP Technical and Policy Issues

November 22, 2010

Input Decks

- EPA corrections to Virginia's latest input deck submission was completed on November 19 and run through the Bay Watershed Model. Results will be provided to DEQ and DCR by Tuesday, November 23.
- Virginia will provide EPA, by Tuesday, November 23, with an additional input deck that includes revised wasteload allocations for the James River that meet both 2017 and 2025 target allocations.
- EPA will provide model results from revised input decks by Nov. 28.

Combined Sewer Overflow System Allocations

- The wasteload and load allocations for Virginia's three combined sewer overflow localities have been resolved.
- Remaining technical issues are in regards to evaluating compliance with wet weather loadings and will be further discussed during the permit issuance process.

Agriculture

- Virginia will provide EPA with revised draft language for the agriculture portion of the WIP by early in the week of November 22. That draft language will address the following:
 - ⇒ Numeric goals for agricultural reductions in accordance with milestone periods
 - ⇒ Funding needs and means to implement the proposed reductions (including technical staff, actions for motivating producers to accelerate implementation, etc.)
 - ⇒ Commitment to achieve the 2017 (60% implementation) and 2025 (100% implementation) goals
 - ⇒ Commitment to pursue a mandatory (e.g. regulatory or statutory) approach for implementing necessary agricultural practices should milestone progress not be achieved
- EPA agreed that compliance with milestone goals will be measured by pounds of pollution reduced, not by implementation of an exact suite of practices. EPA expects that Virginia will still provide an input deck that includes implementation of a mix of BMPs credited in the model that best describes the pollution reductions expected. EPA recognizes that when Virginia reports on progress annually that reporting will be for actual BMPs that are implemented as part of the Resource Management Plans which may be a different mix of practices than indicated in the input deck. Substituting implementation actions is acceptable as long as the overall reduction goal/milestones are attained.
- Virginia is pursuing, and will include in the final WIP, a process for evaluating and addressing potential water quality impacts from AFOs. Progress will be assessed through the milestone process.

James River Staged Implementation

- Agreement was reached on the general approach for providing a staged implementation of wastewater reductions, including how such actions will be addressed in the final WIP, General Permit, and final TMDL.
- DEQ will provide EPA with a revised explanation of the proposed staged implementation strategy and input deck, including 2017 and 2025 allocations, by Tuesday, November 23.
- EPA will further discuss internally remaining legal, technical, and policy issues and provide feedback to Virginia by Wednesday, November 24.

Stormwater

- Virginia's final WIP will not assign E3 level reductions to urban stormwater.
- While discussions have been encouraging, there currently remains insufficient detail with regards to how permits will be written to comply with L2 level of treatment for MS4 localities. In particular permits must include provisions, performance standards, and/or environmental objectives that are quantitative and enforceable.
- Significant more detail is needed with regards to how reductions from unregulated stormwater will be achieved. DCR indicates that this will be accomplished through the promulgation of a state-wide rule that extends requirements to all new development above a certain size threshold. Additional information on when and how this will be accomplished should be included in the WIP.
- Virginia is proposing a voluntary approach for nutrient management. Additional information is needed on when and how, as well as the accountability mechanisms that will ensure reductions are achieved.
- Virginia is proposing a performance-based approach which may be acceptable to EPA, but more detail is needed with regards to accountability and assurance that reductions will be achieved.
- Flexibility for how municipalities achieve the reductions is paramount to the Virginia approach.

Nutrient Credit Exchange Program – Proposed Expansion

- The significance of this component to achieving Virginia's pollutant reductions has been reduced somewhat as a result of the less stringent stormwater reductions to be included in the final WIP.
- EPA has reviewed the latest revision to the proposed expansion and will provide written feedback to Virginia by Monday, November 22.

James River Sediment Allocation

- Virginia has proposed that the sediment allocation for the James River is too stringent and was derived inconsistently from that of the other Bay River Basins due to the numeric chlorophyll criteria that exist for the tidal James River.

- As of November 19, EPA was not able to provide any addition resolution on Virginia's request for an increased sediment allocation for the James River.
- EPA is still evaluating information and will provide feedback to Virginia by Wednesday, November 24.